

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

DAPHNE LACY

Plaintiff,

VS.

AUTO CLEAN, INC., BELANGER
INC., AND SCREAMIN' EXPRESS
METAL WORKS, INC. D/B/A USA
ROLLER CHAIN & SPROCKETS,
SONNY'S THE CAR WASH FACTORY

Defendants.

CIVIL ACTION NO.

THIRD PARTY DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, Third Party Defendant Sonny's The Carwash Factory ("Third Party Defendant" or "Sonny's") files this Notice of Removal, hereby removing this action from the 407th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

1. Removal in this case is based upon federal diversity jurisdiction as the amount in controversy exceeds \$75,000, and there is complete diversity of citizenship. *See* 28 U.S.C. § 1332.

2. Plaintiff filed her Original Petition on May 1, 2020, in the 407th Judicial District Court for Bexar County, Texas, Cause No. 2020CI08090 (“State Action”). Plaintiff’s Petition asserts several causes of action against Defendants, Auto Clean, Inc., Belanger Inc. and Screamin Express Metal Works, Inc. d/b/a USA Roller Chain & Sprockets (“Roller Chain”) collectively known as “Original Defendants”) asserting strict liability and negligence pursuant to Texas Civil Practice and Remedies Code.

3. In her Original Petition, Plaintiff pleaded monetary relief in an amount greater than One Million Dollars (\$1,000,000.00). Specifically, Plaintiff requests monetary relief in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

4. On August 17, 2020, Defendant and Third Party Plaintiff Roller Chain filed an Original Third Party Petition against Sonny's. Third Party Defendant was served with process on September 30, 2020.

5. In addition, there is diversity of citizenship. Plaintiff is a citizen of the State of Texas because that is where she is domiciled. Defendant Auto Clean is a citizen of the State of Texas because that is where it maintains its principal place of business. Defendant Belanger is a citizen of the State of Michigan because that is where it maintains its principal place of business. Defendant Roller Chain is a citizen of the State of Florida because that is where it maintains its principal place of business. Third Party Defendant Sonny's is a citizen of the State of Florida because that is where it maintains its principal place of business.

6. This Notice of Removal is being filed within thirty (30) days of service of the Third Party Petition, which was the first document from which Third Party Defendant could ascertain that the damages were sufficient to make the case removable. Thus, the removal is timely filed.

7. Pursuant to 28 U.S.C. § 1441(a), Defendant may remove this action to the United States District Court for the Western District of Texas, San Antonio Division, which is the federal judicial district which embraces the court where the State Action is pending.

8. Based on the preceding facts, this Court has original subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332, and this case is, therefore, properly removable to this Court pursuant to 28 U.S.C. § 1441(b).

9. Pursuant to 28 U.S.C. § 1446(a) the Notice of Removal has the following attachments:

EXHIBIT 1 Index of Matters Being Filed

EXHIBIT 2 State Court Docket Sheet

EXHIBIT 3 List of All Counsel of Record including addresses, telephone numbers and parties represented

EXHIBIT 4 Original Petition

EXHIBIT 5 Third Party Petition

EXHIBIT 6 Process of Service of Third Party Petition

10. Pursuant to 28 U.S.C. § 1446(d), written notices of filing of this Notice of Removal will be given to all adverse parties promptly after the filing of same.

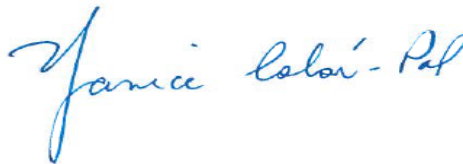
11. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed promptly with the Clerk of the 407th Judicial District Court, Bexar County, Texas. Written notice of filing of the notice of removal, together with copy of the Notice of Removal itself, will also be served upon Plaintiff's and Co-Defendant's counsel.

12. By filing this Notice of Removal, Defendant does not waive any defenses that may be available to it, including, but not limited to, lack of subject matter jurisdiction, lack of personal jurisdiction, insufficiency of process, insufficiency of

service of process, the expiration of any statute of limitations, bar by statute of frauds, or failure by Plaintiff to state any claim upon which relief may be granted.

WHEREFORE, PREMISES CONSIDERED, Defendant Sonny's gives notice and respectfully requests that the State Action be removed to the United States District Court for the Western District of Texas, and that the 407th Judicial District Court of Bexar County, Texas take no further action herein.

Respectfully Submitted,



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DEFENDANT SONNY'S THE CARWASH
FACTORY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served upon Plaintiff's and Co-Defendant's counsel on the 26th day of October 2020 via electronic mail to:

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